

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re)	
)	
MARITIME COMMUNICATIONS/LAND MOBILE, LLC	)	EB Docket No. 11-71
	)	File No. EB-09-01-1751
Participation in Auction No. 61 and Licensee	)	FRN: 001358779
Of Various Authorizations in the Wireless)	
Radio Services)	
)	
Applicant for Modification of Various	)	App. FNs 0004030479,
Authorizations in the Wireless Radio Services	)	0004144435, 0004193028,
Applicant with ENCANA OIL AND GAS	)	0004193328, 0004354053,
(USA), INC.; DUQUESNE LIGHT	)	0004309872, 0004310060,
COPANY; DCP MIDSTREAM, LP;	)	0004314903, 0004315013,
JACKSON COUNTY RURAL,	)	0004430505, 0004417199,
MEMBERSHIP ELECTRIC	)	0004419431, 0004422320,
COOPERATIVE; PUGET SOUND	)	0004422329, 0004507921,
ENERGY, INC.; INTERSTATE	)	0004153701, 0004526264,
POWER AND LIGHT COMPANY;	)	0004636537, 0004604962.
WISCONSIN POWER AND LIGHT)	
COMPANY; DIXIE ELECTRIC)	
MEMBERSHIP CORPORATION, INC.;)	
ATLAS PIPELINE – MID CONTINENT,)	
LLC; DENTON COUNTRY ELECTRIC)	
COOPERATIVE, INC., DBA COSERV)	
ELECTRIC; AND SOUTHERN)	
CALIFORNIA REGIONAL RAIL)	
AUTHORITY)	

To: Marlene H. Dorch, Secretary
Attention: Chief Administrative Law Judge Richard L. Sippel

Request for Clarification,
for Consent to Appeal,
and for Additional Time To Supplement

The undersigned individually and collectively (together, “Petitioners”) submit this request under and for purposes of rule section 1.301(b) with regard to the Judge’s rulings FCC 13M-8 (“M8”) and FCC 13M-9 (“M9”) (the “Request”). Herein, “MCLM” and “Maritime” mean the same.

1. Request for consent to appeal.

After the clarifications requested below, and in relation to them, Petitioners request permission to appeal M8 and M9 including under rule section 1.301(b).

2. Request for clarifications.

Petitioners request that the Judge clarify if M8 and M9 are decisions subject to an appeal under §1.301(a) to any degree, or solely subject to an appeal under §1.301(b). These two rulings are not clear in this regard including since they appear to, but are not clear that they, find that Warren Havens was never, and is not, a party with rights to participate on a pro se basis. See M8, page 2: this explains that Mr. Havens must file a new notice of appearance with fact in support but without legal argument.

It is not clear what this means given that Mr. Havens has personally appeared and by various filings and explanations given notice of that. His appearance was made and has been accepted, and his participation allowed, to some degree. It is not clear why, once this appearance was made, why a new notice is required, and based on that requirement, if his participation to date is deemed defective and subject to being disregarded.

It is also not clear what facts the Judge indicates must be presented, especially given that the full Commission designated Mr. Havens as an individual party in the HDO FCC 11-64, for the factual reasons indicated in the HDO (which referenced the petitions of “petitioners” as a basis of the HDO, and those petitions contained factual showings as to the legal standing to petition of Mr. Havens and the SkyTel legal entities). Where the Commission made this finding and where no party challenged it in a petition for reconsideration of this aspect of the HDO, and no party in this Hearing or the Judge has alleged any facts as to why the Commission’s designation of Mr. Havens as a party in the HDO—it is unclear what factual standard this decision means Mr. Havens must now satisfy.

It is further not clear why this decision finds, on page two, that to participate pro se, “Mr Havens shall immediately retain legal representation for the SkyTel entities....” This, read as it states, imposes on pro se participation a requirement the pro se party spend his personal time and funds, or otherwise causes, legal entities to take an action to benefit the pro se party and enable

him to participate pro se. The legal basis of this should be clarified, or rather, given.

It is further not clear why the showings Mr. Havens has already made, in response to the Judge's past requirements, were not sufficient or addressed, with regard to why he is an individual person, and the SkyTel legal entities are duly organized and operated distinct entities from Mr. Havens, which the Commission did find were valid and separate: Mr. Havens cited the FCC decision and the facts the FCC found in this regard. Mr. Havens further presented the facts of state law, universally understood as a foundation of corporate law and business in the nation, that legal entities (in this case Delaware LLCs and one Delaware nonprofit corporation) are formed and operated due to having separate assets, plans, and legal rights and liability limitations, with regard to the owners and controllers thereof, and other legal entities—and any private or governmental entity that asserts otherwise has the burden of proof to demonstrate why the legal entity does not have those separate rights and liability limitations.

3. Request for time to supplement.

Petitioners request permission to supplement this filing for one week from today, to the end of Wednesday May 15.

The reasons are the following. (1) The five-day time in the rule is the shortest time period in FCC rules (which results in a 7 day time, not counting weekends): as the subject Orders state, these proceedings are “complex,” and the two Orders are also long, and any appeal requires substantial time to prepare. (2) Petitioners have due tomorrow a petition to deny the MCLM-Choctaw request for relief under the so-called Second Thursday doctrine: that was shown to the Judge by the filing submitted yesterday by counsel to Choctaw in this Hearing (although Choctaw is not a party in the Hearing) that opposed the Petitioners motion to extend the filing deadline, which was denied by the Wireless Bureau. After submitting this petition to deny by the end of tomorrow, Thursday, Petitioners will be preparing and filing certain other pleadings in the WT docket on said Second Thursday relief (including large numbers of documents relevant to

the matters in the docket from various legal proceedings, some of which require review by counsel as to asserted confidentiality or attorney eyes only designations, and related court orders). Counsel involved, Tendai Richards of the Winne Banta law firm, is on leave for personal reasons at this time and until May 12: a marriage and other personal reasons, which was accepted as good cause in the Maritime Antitrust case, identified in this Hearing and discussed in the subject two Orders (the “New Jersey Litigation” as it is sometimes called by Maritime) to extend certain pre-trial deadlines (exchange of documents for the trial between Skytel counsel, Mr. Richards, and MCLM counsel). In addition, due to this leave, Petitioners have taken on tasks to assist in completing pre-trial tasks that they otherwise would not have. (3) In the time period requested above to supplement, Petitioners also need to work on an opposition to the MCLM motion for summary judgment on issue (g) filed today, and they also plan to attempt to secure new legal counsel to assist in this hearing in representative capacity. (4) For a more full and complete record of this matter: the request for clarification and request for consent to appeal. This includes Petitioners planned showing, if this request for more time is granted, of certain factual errors in M8 and M9, the two Orders discussed above.

Regarding direct appeal.

Until the requested clarifications are given, or a decision made to not provide them, it would be premature to directly appeal M8 and / or M9 under 1.301(a) which rule may apply.

Respectfully submitted,

/s/

Warren Havens

Individually and for SkyTel legal entities
(previously defined in this case)

2509 Stuart Street
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Dated: May 8, 2013

CERTIFICATE OF SERVICE

I, the undersigned, certify that on March 1, 2013, I caused a true copy of the foregoing filing in FCC docket 11-71 to be served by USPS first class mail (with courtesy email copies, using emails of record) to:

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/s/

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